

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Wesley Spence

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Scott A. Portner, Esq./Freedman & Lorry, P.C.
1601 Market Street, Suite 1500
Philadelphia, PA 19103 (215) 925-8400

DEFENDANTS

Humboldt Bay Shipping Company, B.V.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 2	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Citizen of Another State	<input checked="" type="checkbox"/>	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 6
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input checked="" type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input checked="" type="checkbox"/> 340 Marine Product Liability <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation	LABOR SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 791 Employee Retirement Income Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
				<input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
---	---	--	---	--	--	---

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. Section 1332

Brief description of cause:

Action of maritime worker against vessel owner.

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$	In excess of	CHECK YES only if demanded in complaint: 150,000.00	JURY DEMAND:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
-------------------------------------	---	------------------	--------------	--	---------------------	---	-----------------------------

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

9-9-19

SIGNATURE OF ATTORNEY OF RECORD

Scott Portner

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FREEDMAN AND LORRY, P.C.
BY: SCOTT A. PORTNER, ESQUIRE
IDENTIFICATION NO. 85314
1601 Market Street, Suite 1500
Philadelphia, PA 19103
(215) 925-8400

Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

WESLEY SPENCE : CIVIL ACTION
451 Anderson Drive :
Wilmington, DE 19801 :
:

vs. :

HUMBOLDT BAY SHIPPING COMPANY : NO.
B.V. :
Leonard Springerlaan 17 :
9727 KB Groningen :
The Netherlands :
:

C O M P L A I N T

Jury Trial Demanded

1. Plaintiff Wesley Spence is a citizen and resident of the State of Delaware residing at 451 Anderson Drive, Wilmington, Delaware, 19081.

2. Defendant Humboldt Bay Shipping Company B.V. is a corporation organized and existing under the laws of The Netherlands with its primary place of business located at Leonard Springerlaan 17, 9727 KB Groningen, The Netherlands.

3. The jurisdiction of this Court is invoked under 28 U.S.C. §1332, there being diversity of citizenship between the parties and the amount in controversy, exclusive of interest and costs, being in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00).

4. On or about September 22, 2017 and at all times material hereto, Defendant Humboldt Bay Shipping Company B.V. owned, managed, operated, possessed and controlled the M/V Humboldt Bay.

5. On or about September 22, 2017 the M/V Humboldt Bay was in navigable waters of the United States and was berthed at the Port of Wilmington, Wilmington, Delaware.

6. On or about September 22, 2017, the Plaintiff Wesley Spence was employed by Murphy Marine Services, Inc. in the capacity of longshoreman.

7. On or about September 22, 2017, the Plaintiff Wesley Spence was in the course and scope of his employment and was physically moving steel plates on the wooden decking of the lower hold of the M/V Humboldt Bay, for forklifts to operate during the discharge process in order to provide a safe working surface for those forklifts when he was caused to injure his cervical and lumbar spine and sustain the injuries described herein.

8. The injuries sustained by Plaintiff Wesley Spence on or about September 22, 2017, as set forth below, were caused by the carelessness and negligence of Defendant Humboldt Bay Shipping Company B.V., acting through its agents, servants, workmen and employees, including the breach by said Defendant of its "turnover" and "intervention" duties to the Plaintiff under Section 5(b) of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. Section 905(b).

9. By reason of the carelessness and negligence of the Defendant as aforesaid, Plaintiff was caused to sustain serious injuries to his left knee including, but not limited to, cervical disc herniations at C5-6, C6-7, lumbar disc herniation L5-S1,

lumbar radiculopathy, lumbar sprain and strain, cervical sprain and strain, aggravation and exacerbation of pre-existing cervical and lumbar degenerative disc disease, the full extent of which has not yet been determined, he sustained other orthopedic, neurological and internal injuries; he sustained arthritic and vascular changes; he sustained severe shock and injury to his nerves and nervous system; he has in the past required and may in the future continue to require medicines, medical care and attention; he has in the past been and may in the future be compelled to expend monies and incur obligations for such care and attention; he has in the past suffered and may in the future continue to suffer agonizing aches, pains and mental anguish; he has in the past been and may in the future continue to be disabled from performing his usual duties, occupations and avocations.

WHEREFORE, Plaintiff Wesley Spence prays that judgment be entered against Defendant Humboldt Bay Shipping Company, B.V., for a sum in excess of One Hundred and Fifty Thousand Dollars (\$150,000.00) in damages together with costs and interest and bring this action to recover same.

FREEDMAN AND LORRY, P.C.

BY:

Scott Portner
SCOTT A. PORTNER
Attorney for Plaintiff

Date: September 9, 2019